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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/353,786. 12/12/94 LOGUE

G 941300

POPOVICS, R. EXAMINER

ART UNIT PAPER NUMBER

1306

6

DATE MAILED: 05/95

WEBB ZIESENHEIM BRUENING LOGSDON
ORKIN HANSON
700 KUPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219-1818

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 3-24-95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire THREE month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 12-29 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 12-29 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit: 1306

Part III DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 12-29 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 12-29, it is unclear if Applicant is claiming a filter, or combination of filter and catch basin.

Claims 12, 22 and 27, are rejected as being incomplete for failing to specify lift rods 40, which are considered essential to the instant claimed invention.

In claim 28, it is unclear what constitutes a "removal member."

In claim 29, it is unclear what constitutes a "lift member."

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 22-26 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by KINNE (U.S. Patent No. 3,282,430).

4. Claims 27-29 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by SIELING (U.S. Patent No. 2,496,757).

Art Unit: 1306

Double Patenting

5. Claims 12-29 are rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-15 of U.S. Patent no. 5,372,714. Although the conflicting claims are not identical, they are not patentably distinct from each other because the parent case clearly claims the combination of filter and basin, whereas, the basin appears to be recited in the instant case with respect to intended use.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78 (d).

Allowable Subject Matter

6. Claim 12 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112.

Serial Number: 08/353,786

-4-

Art Unit: 1306

7. Claims 13 and 23 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112 and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner R. Popovics whose telephone number is (703) 308-0684.

In the event that Examiner Popovics cannot be reached, Applicant may contact his supervisor; Mr. Robert A. Dawson, Supervisory Patent Examiner, at (703) 308-2340.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

The fax no. for Art Unit 1306 is (703) 305-3602.

ryp
28 September 1995

A handwritten signature in black ink, appearing to read 'R. Popovics', is written over a large, faint, stylized 'R' that serves as a background for the signature.

ROBERT J. POPOVICS
PATENT EXAMINER
GROUP 1300